

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

DAVID J. WESCH, JR., TDCJ # 2237752,

Plaintiff,

vs.

COMAL COUNTY SHERIFF
MARK W. REYNOLDS, ET AL.,

Defendants.

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CIVIL NO.
SA-19-CA-864-XR

ORDER

Before the Court is the Civil Rights Complaint [#1] filed by the plaintiff, David J. Wesch, Jr. ("Plaintiff"), pursuant to 42 U.S.C. § 1983. After reviewing the Complaint as required by 28 U.S.C. §§ 1915(e)(2) and 1915A, this Court has determined that Defendants shall be served and required to answer this suit.

IT IS THEREFORE ORDERED:

1. Service of Defendants: The Clerk of Court shall request the U.S. Marshal serve each Defendant by certified U.S. Mail return receipt requested with a summons, a copy of Plaintiff's Civil Rights Complaint [#1], and this Order.

The Clerk shall also send a courtesy copy of Plaintiff's Complaint and this Order by regular mail to Michael A. Shaunessy, McGinnis, Lochbridge & Kilgore, 600 Congress Avenue, Suite 2100, Austin, Texas 78701.

2. Defendants' Answer: Defendants shall file answers as directed in the summonses.


3. Exhaustion of Administrative Remedies: Under 42 U.S.C. § 1997e, state prisoners must exhaust prison administrative grievance procedures before seeking federal relief in civil rights cases. If a motion to dismiss for failure to exhaust administrative grievance procedures is appropriate, Defendants shall file the motion within sixty (60) days of entry of this Order. The

motion shall contain copies of all grievances submitted by Plaintiff regarding the incidents alleged in Plaintiff's civil rights complaint. If Defendants file a motion to dismiss for failure to exhaust administrative remedies, Plaintiff may file a reply within ten (10) days thereafter.

4. Duty to Inform Court of Change of Address: Plaintiff shall immediately notify the Clerk and Defendants' counsel in writing of any change of address. Plaintiff shall caption any such advisories as "Notice to the Court of Change of Address" and not include any motions or other matters in such notice. Failure by Plaintiff to furnish the Court and Defendants with notice of a change of address may result in dismissal of the complaint.

5. Consent to Have Case Decided Before a U.S. Magistrate Judge: Pursuant to 28 U.S.C. § 636(c), the parties may consent to have a case proceed and be decided before a United States magistrate judge with final judgment entered by the magistrate judge. Because of the district court's heavy felony docket, which takes precedence over civil matters, the parties may wish to consent to have this case decided by a magistrate judge so that it can be more quickly resolved. Within thirty (30) days, each party shall file an advisory with this Court (using the attached form) stating whether the party consents to have this case proceed to final judgment before the undersigned magistrate judge or wishes to have this case proceed before a district judge.

SIGNED this 27th day of August, 2019.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE

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ADVISORY TO THE CLERK OF COURT

The undersigned party in the above-captioned case elects as follows (please select only one of the following options):

☐ I Consent to Proceed Before A United States Magistrate Judge in accordance with provisions of 28 U.S.C. § 636. The undersigned party in the above captioned case waives the right to proceed before a United States District Judge and consents to have a United States Magistrate Judge conduct any and all further proceedings in this case, including rendering a decision, and to order the entry of final judgment. Any appeal shall be taken to the United States Court of Appeals for the Fifth Circuit in accordance with 28 U.S.C. § 636(c)(3).

☐ I Do Not Consent to Proceed Before A United States Magistrate Judge. The undersigned party in the above captioned case elects not to have this case decided by a United States Magistrate Judge, and prefers that this case proceed before the District Judge.

Party Name

By:

Signed by Attorney or Pro Se Party

Date